Advice Memorandum

DATE: August 20, 2001

TO: Elizabeth Kinney, Regional Director
Harvey A. Roth, Regional Attorney
Gail Moran, Assistant to Regional Director

Region 13

FROM : Barry J. Kearney, Associate General Counsel

Division of Advice

SUBJECT: R. J. Corman Railroad Company/Material Sales

13-CA-39148-3

This case was submitted for advice as to whether the Employer violated the Act by informing potential employers of driver Michael Algozine, a discriminatee in a pending Section 8(a)(3) case, that Algozine was an "Assistant Superintendent" and had not worked as a driver for the Employer.

The Region has obtained evidence that the Employer gave Algozine the Assistant Superintendent title, and listed him in its payroll database as holding that position, in order to avoid hiring a driver through the Union hiring hall. A Human Resources manager in the Employer's corporate office relied on the information in the database in conveying to potential employer Truckers Express that Algozine was an Assistant Superintendent with no driving responsibilities. Truckers Express asserts that it would not have hired Algozine, even if his driving experience with the Employer were fully credited, because he did not have enough hours to meet the company's minimum driving requirement.

We agree with the Region, for the reasons set forth in the Request for Advice, that the Employer violated Section 8(a)(1) by misinforming Truckers Express regarding Algozine's job responsibilities. [FOIA Exemption 5